

Minutes of August 26, 2010

ASHLEY LAKE LAND USE ADVISORY COMMITTEE

Attendance: Mark Boardman, Tim Coleman, Les Hart, Clell Hoffman,
Brent Kandarian, Dick Ramos, Ed Speelman

Advisor: Andrew Hagermeier

Meeting called to order 6PM by Dick Ramos

Minutes of July 29, 2010 – approved

Andrew hands out to committee members copies of comments sent in by 10 individuals or joint parties on Draft One of the Neighborhood Plan. Comments per submission are a few to several.

Public attendees at this meeting are invited by Andrew to sign-up; and leave e-mail addresses for future meeting notice, etc.

Andrew gives introduction, explanation and answers questions before public comment.

Audio-visual recording of this meeting is being done; is not usual for our meetings.

Andrew's Presentation -

Introduction of ALLUAC – 7 members, 4 on lake, 2 off-lake, 1 corporate

What is a neighborhood plan (NP) ? - Guidance for creating zoning (development code). Map of plan is shown. Plan is a 1996 creation. The July 30, 2010 Draft One, subject to revision before adoption, is the first update. The Flathead County Growth Policy was adopted in 2007. Neighborhood plans have to be consistent with it.

Changes to the NP in the update – Format. Different chapters required by the Growth Policy. Vision statement is new. "Existing Conditions" are updated. Issue and Opportunities. Goals and Policies.

Two changes recommended – 1. Remove multi-family dwellings (duplexes, triplexes, condominiums) from conditional uses. Reasons – Not in a fire district, remote location on gravel road. 2. Remove resorts and marinas from conditional uses. Reasons – lack of services, remote location on a gravel road.

Third recommendation – Stay the course on the rest of the zoning.

What is next? - After reviewing comments, committee will decide if NP is ready for processing by the county for adoption. Then the Flathead County Planning Board will hold a public workshop with open dialogue and public comment. ALLUAC will come. The next step after this the Planning Board will hold a public hearing. Planning staff will make a presentation to the Planning Board who will then open public comment and then may recommend changes to the County Commissioners. Ultimately the latter will hold a meeting to decide on the NP.

Watch for the ALLUAC link on FC Planning and Zoning website.

Questions from public attendees -

Q: How did NP come to be? What was ALPOA's role?

A: ALPOA got a dialogue started. A steering committee was formed.

Q: Inaudible

A: State statute law is basis for regulations. Plan and code are two separate issues. Only NP is being changed at this time. If County Commissioners adopt the plan, then ALLUAC will work with planning staff to draft code changes. ALLUAC will hold a meeting with public comment. If decide to go to Planning Board, will skip public workshop, but go straight to public hearing. Then a public hearing with the commissioners.

Q: Then regulations have force of law?

A: Yes.

Q: An introduction of committee members and what they represent is requested.

A: Dick introduces each member.

Further questions are deferred to after public comment.

Public Comment -

Note: The following are not verbatim transcripts for a number of reasons, grappling with different recorded voices. Much is inaudible/undecipherable.

Darrel Story, 4291 Ashley Lake Road: The plan is fuzzy on the relationship between ALPOA and the committee. Do the latter have authority over the former? NP language should be more precise. Guidelines are too vague. Suggest be clear and concise

in recommendations. For example "marina", what kind? There are constitutional issue about exclusivity. God Bless all of you, you've done a wonderful job. I just got an e-mail from my brother, no other notice received.

John Brenden, 4307 Ashley Lake Road: I've been on Ashley Lake since 1949. I have seen some terrible things up there. One is rules and regulations. Instead of personal responsibility. Setbacks. Septic systems. People are adding bathrooms on the same septic system. Park my RV if I had for 30 or 50 days, will take you to court and die fighting that kind of regulation if I can't park it there. One acre. We subdivided 1953-54 in 100 foot lots. I've got 400 feet on Ashley Lake. You are not going to get me in a position where I can't or do something or develop on my my property. That is guaranteed under US Constitution. When I was in state senate 15-18 years ago, FWP and a bunch of people wanted 50-foot setback from FWM. It's 20 feet now. I got that defeated. It's a private property right. Density. You came after I did. Multifamily. I know people who have guest houses, etc. Can name names. If I want to start a marina. Have marinas on Whitefish and Flathead Lakes which are the most restricted area in the whole wide world. Are we making Ashley Lake a place for the rich? Used to be for blue collar people. Now have people coming in saying thou shalt not because I've got more money than you. Well, I don't think Ashley Lake has to be a resort for the ultrarich. We're getting a new fire district up there. We're going to have a fire truck at either end of the lake as I understand it. So that is a development that's happening. I came in over Batavia. Is not a gravel road. Is rock and a lot of dirt. My taxes will go from \$3200 in 2014 to over \$11,000. We are fighting that in the state legislature. How many of you can afford to have taxes go up like that? And yet services go down and down each year. One or two graders once or twice a year. I'm sorry folks, this plan is not a good plan. It is about thou shalt not. I'm not going to put up with thou shalt not. And if it comes to the point that we have to do legislation in the State of Montana, I will do that, and I will bury it. Because I think everybody should be able to recreate on Ashley Lake if have good intentions. I've seen it happen not only here but when I was on FWP Commission, Oh we can't have this kind of recreation on this stream, river or lake. Are you going to play God and say who can have this kind of recreation on this place. I think we should have multiple recreation. It should be for everybody. Not just for a bunch of elite. Thank you very much.

Ron Buentemeir, 4813 Ashley Lake Road: General comments - I've spent most of my life in the Flathead Valley. If those who have come in the last 30 years would go home, we wouldn't need this meeting. But that is not going to happen; that is not reality.

So we all have to figure out how to live in this kind of family. I don't like regulations. I was on the original homeowners association. Out of that we developed the idea for a neighborhood plan (NP) for Ashley. And I was on the original committee that developed the original plan. If we had not developed a development code to go along with the NP, we would have had a disaster on our hands. I had urged the committee to make development code part of this document.

Comments on Draft One of NP - 1. page 5 proofreading item re "ponderosa". 2. I am confused on the "multifamily" statement. Can have multi-family owners but can have just one cabin? I think that's what we are trying to say. I think that's probably not very farsighted. On Ashley we have some families that have duplexes. Seeme like a good use of property. So I think we need to do more work on that. Can understand why you do not want condos. Can understand why John would like to have a place for his family members. So make one big house and have a whole bunch of doors? 3. Mean high water mark (MHWM) re lakeshore protection. I realize you do not have the power to change that. But can make recommendations. From the Conservation District we have a definition of MHWM. It is where you have permanent vegetation and where you do not. Water might rise higher than that, but does not stay long enough to kill vegetation. Everybody can look at that on the ground and come to reasonable conclusion on where MHWM is. I recommend. 4. Clarification. Plan has not been ammended, but development code has been.

After Brenden comments and before Buentemeir comments, Darrel Story and John Brenden spoke again. The former said that the Ashley NP should be constitutional; the latter mainly re-emphasized some of his main points.

Committee members replied to some issues in the comments. Clell said that regulations, to come later, are key.

- We have no control over lakeshore protection act. The 20-foot exclusion is not part of NP.

- One acre guideline is Health Department requirement if have well and septic system. Some existing smaller than one acre have been grandfathered.

- Guest house in current regulations are a conditional use. ~~multiple~~ guest houses have been approved.

Tim says that one of the biggest sources of pollution is a marina, e.g. invasive species. John Brenden points out that he co-sponsored invasive species legislation with Verdell Jackson.

Putting Code
Back in Plan

Pool Parking

Multifamily

Changed
By committee
on 9/1



MANY

Next some dialogue took place, consisting of questions, further public comments, committee responses, Andrew answers and discussion, committee discussion. In the following notes not all of this is covered. Your secretary suggests that you review a copy of the DVD-R for full coverage.:

Q: If we e-mail you or wrote to you with comments, could we have those comment before us?

Darrel Story: Guidelines are not separate from the regulations.

Clell: We had public hearing on the regulations.

Darrel Story: Too much leeway in interpretation. If say no marina on Ashley Lake, what kind of marina will it be? Have to be very specific. Otherwise could have bad regulations.

Clell discusses MHWM, concluding that we ought to find out what it is and put it in the regulations. Consider vegetation-basis.

Committee decides to have a work session regarding sent-in comments on September 9 at 6PM.

Additional comments encouraged. E-mail or send to Andrew.

Andrew summarizes briefly the comments sent in so far. Can look at anything at the planning office.

Dick notes that the plan and regulations were done in 1997. The latter was ammended in 2000.

The homeowners association in 2008 sent out survey to over 250 property owners on the lake. Some 150 replied. We took that survey plus research and developed the current plan draft. So there was public input.

Andrew agrees that some sent-in comments are outside the scope of the NP. He will point out which.

Lakeside made a spreadsheet of comments. Without identifying commenters - though this is part of the record.

On spreadsheet can show how we address each comment.

Andrew says that Planning Board will want to see public support. He suggests that after we complete revision, perhaps we can co-ordinate a letter to property owners and ask if they support the plan, yes or no.

In executive summary we can point out changes in this plan over original plan.

Brent notes that changes are mainly based on the survey.

Two original steering committee members are in the audience- Dick Chapin and Ron Buenteimeir. They clarify the role of ALPOA in developing the plan and how it came about. Your secretary will work on an accurate transcript of their remarks for an addendum to minutes of September 9 meeting. We can then see if we want to make changes to "History of Plan".

Discussion of marinas took place, Brent said that Lake Tahoe has banned 2-cycle engines.

Discussion re "multifamily dwellings".

Discussion on how to clarify that plan comes before code and that plan is not code. Ron Buenteimeir notes that in notifications one could refer to code. Andrew considers re plan and code "Maybe attached by a staple".

Copies of comments will be available for the public (with names on).

Tim gives a report on a developing rental situation on the lake. Andrew has considered how to regulate rentals. Enforcement is difficult to do. Although perhaps not if advertised on the internet. A daily rental is considered a hotel and certain requirements then apply. Monthly rentals are O.K. As far as the county is concerned.

Clell: Multi-owners of property is common on lakes. Also friends could alternately share a property. So definition of "family" may be a problem.

DVD-R copies of this meeting can be made available to committee members.

Planning office does not charge for drafts.

Meeting is adjourned. Next September 9 at 6PM. Ed Speelman-secretary